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Attorney Docket No. CV-31588

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Pascault, Jean Pierre, et al.
Serial No. : 09/937,550
Filing Date : December 12, 2001
For : Thermosetting Compositions Comprising Cross-Linked Reactive
Microparticles with Improved Mechanical Strength
Group Art Unit : 1755
Examiner : Donald R. Wilson

#8
6/6/03
JC**CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10**

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37 CFR 1.8(a)

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Date:

5/30/03

Patricia Lick

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE UNDER 37 C.F.R. §1.111

This response replies to the Office Action mailed May 1, 2003. The Examiner required election of species between:

- a. Cross-linked microparticles, characterized by monomeric units and remaining functional groups which are present, and
- b. Reactive systems of the thermosetting composition, characterized by reactive components present.

The Applicants elect, with traverse, species (b), thermosetting composition. This specie reads on Claims 1-21.

The Examiner's requirement for election of a specie is clearly in error. First, the Examiner's position is inappropriate because this is the National Stage of a PCT application and

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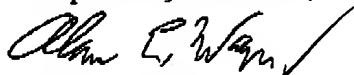
unity of invention was satisfied in that PCT application. An International application which complies with the unity of invention requirements laid down in Rule 13 must be accepted by all the designated and elected offices, since Article 27(1) does not allow any national law to require compliance with requirements related to the contents of the International application different from or additional to those provided for in the PCT. See paragraph 138 of the PCT Applicant's Guide. As such, the US Patent Office must defer to the International prosecution and acknowledge unity of invention for this application.

Second, there is only a single independent claim pending in this application. "Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims." ANNEX B UNITY OF INVENTION (emphasis added).

Third, there are no pending claims which would read on the other proposed specie "microparticles". Rather, the microparticles are one of the reactive components present which characterize the thermosetting composition. Indeed, a main new characteristic of these thermosetting compositions is the presence of the specified microparticles. As such, the microparticles are not severable from the characteristics of the thermosetting compounds.

For the reasons stated above, the Applicants request that the Examiner withdraw the specie election requirement.

Respectfully submitted,



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